

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

Marvin Kimbrough,
Plaintiff,

v.

Team Honda,
Defendant.

Case No.

TRIAL BY JURY DEMANDED

COMPLAINT

Jurisdiction and Venue

1. This action is brought pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. (“Title VII”).

2. This Court has subject matter jurisdiction of the action under 28 U.S.C. §§ 1331, 1343.

3. Venue is proper in this court because:

a. the unlawful employment practices and civil rights violations alleged in this complaint have been, and now are being committed within the Northern District of the State of Indiana;

b. Team Honda, which is an assumed name of US 30 HON LLC, is an entity with the capacity to sue and be sued in its common name under applicable Indiana laws and subject to the court's personal jurisdiction with respect to this civil action and venue is proper pursuant to 28 USCS § 1391; and

c. Plaintiff worked for Defendant in this district.

Parties

4. Plaintiff, Marvin Kimbrough, lives in Merrillville, Indiana.

5. Team Honda employed Plaintiff at its business location in Indiana and regularly transacts business in the state.

6. Defendant is an employer subject to the provisions of Title VII in that it is a company, affects interstate commerce, and has employed 50 or more persons for each working day in each of 12 or more calendar weeks in the current or preceding calendar year.

7. Defendant is and at all material times has been a company authorized or organized and existing under laws of the State of Indiana, with offices located in Lake County, Indiana.

Conditions Precedent

8. On May 23, 2019, Plaintiff, claiming to be aggrieved, filed charges of discrimination against the Defendant with the Equal Employment Opportunity Commission (“EEOC”). (**Ex. A**).

9. The Commission investigated these charges and on November 8, 2020 issued to Plaintiff a Dismissal and Notice of Rights. (**Ex. B and Ex. C**).

10. Plaintiff received the notice on or after November 11, 2019, and timely files this complaint. (**Ex. D**).

11. All conditions precedent to the institution of this action have been fulfilled.

Factual Background

12. Defendant sells automobiles to customers in Illinois and Indiana.

13. Mr. Kimbrough was employed by Team Honda as a sales manager.

14. On April 29, 2019, Team Honda managers told Mr. Kimbrough to either take a pay cut or quit his job.

15. On that same day, Team Honda managers told the other White managers that they would be receiving a pay increase.

16. On that same day Team Honda managers did not give the other White managers an ultimatum to take a pay decrease or quit.

17. On April 30, 2019, Mr. Kimbrough complained to Team Honda's managers that they were treating him unfairly compared to the other White managers because he is Black.

18. Mr. Kimbrough had historically worked in a hostile work environment where the managers of Team Honda treated him poorly relative to the other White managers, and he has complained in the past of that poor treatment.

19. Team Honda failed to address Plaintiff's complaints about the discrimination and instead said that the company needed to make financial changes.

20. The financial changes only required Mr. Kimbrough to take a pay decrease not the other White sales manager that worked alongside Plaintiff.

21. The financial changes only required Mr. Kimbrough to take a pay decrease not the other White managers that worked for team Honda.

22. Due to team Honda's discriminatory acts, Plaintiff has suffered lost wages because he was forced to quit and became unemployed losing a six-digit income.

23. Due to team Honda's discriminatory acts, Plaintiff has suffered from mental anguish due to the demeaning way management treated him, with disrespect and disdain due to his being Black and in front of his White co-workers.

COUNT I - Racial Discrimination

24. The foregoing paragraphs are hereby incorporated into this count.

25. Mr. Kimbrough was earning a good wage with Team Honda.

26. Defendant's intentionally and maliciously planned to pay Mr. Kimbrough less than his White coworkers because he is black and would not complain, so they thought.

27. Plaintiff has worked for Team Honda for eleven years.

28. Plaintiff has a history of excellent work and sales performance with Team Honda.

29. Mr. Kimbrough was well qualified for Defendant's management position.

30. The White coworkers that received raises or no pay decrease were treated better than Plaintiff despite having worked for fewer years and having been reprimanded regularly for poor performance while working for Team Honda.

31. Due to the pay decrease offered by Team Honda and the humiliation that would ensue from him being treated so poorly compared to the White managers Mr. Kimbrough was forced to quit.

Jury Demand

32. COMES NOW the Plaintiff, Marvin Kimbrough, and demands trial by jury.

WHEREFORE, premises considered, the Plaintiff, being injured by the Defendant's wrongful acts, requests that this Court issue 1) A decree ordering the Defendant to make Plaintiff whole, including, but not limited to, providing financial compensation, and restitution in an amount to be proved at trial, and by providing other affirmative relief necessary to eradicate the effects of the Defendant's past and present unlawful employment practices; 2) A Judgment for the Plaintiff for his actual, compensatory and punitive damages; 3) An award to the Plaintiff for his reasonable attorney fees and costs in this action; 4) An award to the Plaintiff for prejudgment interest at the statutory rate; 5) A Judgment for the Plaintiff compensating him for the general emotional distress

and humiliation Plaintiff has suffered as a result of Defendant's unlawful conduct; and 6) An order for all other relief that is necessary and proper.

Respectfully submitted,

/s/Daniel Zamudio
Daniel Zamudio
Zamudio Law Professionals, PC
233 South Colfax
Griffith, Indiana 46319
Phone (219) 924-2300
Fax (219) 924-2401
dan@zlawpro.com